

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

RAFAEL OROZCO,

Plaintiff,

v.

Case No. 13-12288

UNITED STATES OF AMERICA,

Defendant.

ORDER REQUIRING CLARIFICATION

On October 2, 2013, the parties filed a stipulation to stay this case and adjourn the current discovery deadlines put in place by the court in its September 6, 2013 Scheduling Order. The parties request that the case be stayed for 30 days until November 2, 2013, and that all deadlines be adjourned for 30 days, citing the current government shutdown as the motivating reason for this request.

The parties state that: "Absent an appropriation, most Department of Justice attorneys involved in civil litigation are prohibited from working, even on a voluntary basis, except in very limited circumstances."

Although the parties do not cite it as a source, this statement appears to reference 31 U.S.C. § 1342 which states: "An officer or employee of the United States Government . . . may not accept voluntary services for . . . government or employ personal services exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property." However, the parties do not say whether the attorney responsible for this case has been, or is about to be, furloughed.

According to the Department of Justice (DOJ) Contingency Plan, found on the Department's home page:

Civil litigation will be curtailed or postponed to the extent that this can be done without compromising to a significant degree the safety of human life or the protection of property. Litigators will need to approach the courts and request that active cases, except for those in which postponement would compromise to a significant degree the safety of human life or the protection of property, be postponed until funding is available. *If a court denies such a request and orders a case to continue, the government will comply with the court's order, which would constitute express legal authorization for the activity to continue. The Department will limit its civil litigation staffing to the minimum level needed to comply with the court's order and to protect life and property.*

U.S. Department of Justice FY 2014 Contingency Plan, [www.justice.gov, http://www.justice.gov/jmd/publications/doj-contingency-plan.pdf](http://www.justice.gov/jmd/publications/doj-contingency-plan.pdf) (last visited Oct. 3, 2013) (emphasis added) (the rendering of this URL contains spaces). Assuming the above-quoted language governs this matter, it appears that a court order will result in continuation of the case without delay. Accordingly,

IT IS ORDERED that Defendant is DIRECTED to file a statement of clarification not later than **October 4, 2013**, addressing the following questions:

- (1) Has the attorney responsible for this case been furloughed?
- (2) Does the DOJ Contingency Plan language quoted above govern this matter? If the language governs, does Defendant dispute the court's interpretation? If Defendant contends that another source of authority governs this matter, it is advised to include it in its statement of clarification.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: October 3, 2013

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, October 3, 2013, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522